

FACT SITUATION

Salt City has a community that is proud of its high school — its graduates are well known for going to prestigious colleges and universities. Competition at the school is tough. Some now wonder whether it is so tough that it sent one young star off to a tragically early grave.

Salt City High School (“SCHS”) is located near mountain canyons. At the school, honor students vigorously compete with each other hoping to gain entry to the nation’s top colleges. Every year, the English department creates a final exam for all its honors literature classes. The department administers the exam both as a grade in Honors English Literature and to determine the recipients of three Distinguished Writers Foundation (“DWF”) scholarships to college. The DWF was established by graduates of SCHS to promote the school and the study of literature. The scholarship recipients are announced at graduation. In 2003, the exam was given on May 30, two weeks before graduation.

In recent years, there have been problems with cheating at SCHS. To crack down on cheaters, the administration instituted an honor system in which students are required to report incidents of cheating. Those who know about cheaters and who fail to report them are treated the same as the cheaters themselves. For a first offense, the offender gets a one-day suspension and a failing grade on the assignment in question. A second offense results in an “F” in the class and a permanent demerit in the student’s school record. This rule is rigorously enforced and allows for no exceptions. In 2002, students Beck Martin and Cody Ward were caught cheating. Both were first-time offenders.

In the spring of 2003, Beck, Cody, and Anne Marcus were seniors at SCHS. They had known each other for years from participating together in academic programs, and all three had been on the honor roll. Anne was a tall 17-year-old girl and an avid rock climber, known to climb regularly in Cottonwood Canyon. Beck and Cody were both of slight build, were slightly taller than Anne, and were athletes. Beck was the captain of the school’s soccer team. Cody ran cross-country on the track team. All three were in Larry Molina’s Honors English Literature class, and each had been accepted at Empire University for the fall. They took the test on May 30 as scheduled.

CHARGES

The prosecution charges the defendant, Beck Martin, with two counts: Murder under Utah Code Annotated §76-5-203 and Manslaughter under §76-5-205.

Utah's murder statutes read, in relevant part:

Section 76-5-201. Criminal homicide -- Elements -- Designations of offenses.

(1) (a) A person commits criminal homicide if he intentionally, knowingly, recklessly, with criminal negligence, or acting with a mental state otherwise specified in the statute defining the offense, causes the death of another human being, including an unborn child at any stage of its development.

(b) There shall be no cause of action for criminal homicide for the death of an unborn child caused by an abortion.

(2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse homicide, homicide by assault, negligent homicide, or automobile homicide.

Section 76-5-203. Murder.

(1) As used in this section, "predicate offense" means:

(a) a violation of Section 58-37d-4 or 58-37d-5, Clandestine Drug Lab Act;

(b) child abuse, under Subsection 76-5-109(2)(a), when the victim is younger than 18 years of age;

(c) kidnapping under Section 76-5-301;

(d) child kidnapping under Section 76-5-301.1;

(e) aggravated kidnapping under Section 76-5-302;

(f) rape of a child under Section 76-5-402.1;

(g) object rape of a child under Section 76-5-402.3;

(h) sodomy upon a child under Section 76-5-403.1;

(i) forcible sexual abuse under Section 76-5-404;

(j) sexual abuse of a child or aggravated sexual abuse of a child under Section 76-5-404.1;

(k) rape under Section 76-5-402;

(l) object rape under Section 76-5-402.2;

(m) forcible sodomy under Section 76-5-403;

(n) aggravated sexual assault under Section 76-5-405;

(o) arson under Section 76-6-102;

(p) aggravated arson under Section 76-6-103;

(q) burglary under Section 76-6-202;

(r) aggravated burglary under Section 76-6-203;

(s) robbery under Section 76-6-301;

(t) aggravated robbery under Section 76-6-302; or

(u) escape or aggravated escape under Section 76-8-309.

(2) Criminal homicide constitutes murder if:

(a) the actor intentionally or knowingly causes the death of another;

(b) intending to cause serious bodily injury to another, the actor commits an act clearly dangerous

to human life that causes the death of another;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor engages in conduct which creates a grave risk of death to another and thereby causes the death of another;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) a person other than a party as defined in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4; or

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against a peace officer;

(f) commits a homicide which would be aggravated murder, but the offense is reduced pursuant to Subsection 76-5-202(3); or

(g) the actor commits aggravated murder, but special mitigation is established under Section 76-5-205.5.

(3) Murder is a first degree felony.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another or attempted to cause the death of another:

(i) under the influence of extreme emotional distress for which there is a reasonable explanation or excuse; or

(ii) under a reasonable belief that the circumstances provided a legal justification or excuse for his conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) Under Subsection (4)(a)(i) emotional distress does not include:

(i) a condition resulting from mental illness as defined in Section 76-2-305; or

(ii) distress that is substantially caused by the defendant's own conduct.

(c) The reasonableness of an explanation or excuse under Subsection (4)(a)(i) or the reasonable belief of the actor under Subsection (4)(a)(ii) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(d) This affirmative defense reduces charges only as follows:

(i) murder to manslaughter; and

(ii) attempted murder to attempted manslaughter.

Section 76-5-205. Manslaughter.

(1) Criminal homicide constitutes manslaughter if the actor:

(a) recklessly causes the death of another;

(b) commits a homicide which would be murder, but the offense is reduced pursuant to Subsection 76-5-203(4); or

(c) commits murder, but special mitigation is established under Section 76-5-205.5.

(2) Manslaughter is a felony of the second degree.

EVIDENCE

Only the following physical evidence may be introduced at trial (found after witness statements):

1. A faithful reproduction of the map of Cottonwood Canyon.
2. A faithful reproduction of the map of the Cove.
3. A faithful reproduction of the coroner's diagram of Anne Marcus' body.

STIPULATIONS

Prosecution and defense stipulate to the following facts:

1. The English exam photocopy had both Beck Martin's and Cody Ward's handwriting on it.
2. Anne Marcus and Beck Martin have type A blood.
3. Dr. Aidan Hobbes and Dr. Sage Gracian are qualified expert witnesses and can testify to each other's statements.
4. Larry Molina, Aunt Myra, Beck Martin's parents, his minister, and the individual who found the body are unavailable to testify.
5. All witness statements were taken in a timely manner.
6. The vandalized locker belongs to Anne Marcus.
7. For purposes of this trial, on June 8, 2003, sunset was at 8:04 p.m.

WITNESS STATEMENT
PROSECUTION WITNESS: CODY WARD

My name is Cody Ward, and I live at 42 Chimel Road in Salt City. I am 17 years old, and I graduated from Salt City High School in August after completing summer school. I took Larry Molina's Honors English Literature course in the spring. Both Anne Marcus and Beck Martin were also in the class. I had studied hard all semester because I had applied to a number of schools, and I awaited hearing about scholarship information. Among the colleges I had been accepted to was Empire University, which honored scholarships from the Distinguished Writers Foundation. I knew that in the past, the top three grades on the honors literature exam received these scholarships and received honors at the graduation ceremony, too. My older brother had received the award two years ago, and my sister received the award last year. I really felt like I had to follow in their footsteps. The whole atmosphere of the class was competitive. The students compared their quiz and essay grades with each other. It was intimidating. I know I am a good student, but I still felt the pressure.

Maybe that explains why I agreed with Beck to cheat on the exam. Beck had a school volunteer service job working in the English department and snooped around to find the extra keys to Molina's cabinets. One day, probably in early May, Beck came up to me after school and showed me a copy of Molina's exam. There were multiple choice and essay questions. I could not believe my eyes. Beck was angry that there were no answers written on it, but told me that the questions gave us an opportunity to prepare in advance. At first, I told Beck to put the exam back. I had already been caught the year before for plagiarism. I had learned my lesson, or so I thought, but Beck was insistent, telling me that I had to go along with it because now I knew too much. I guess I ought not to blame Beck. It was my stupid decision to go ahead with Beck's plan.

So, we prepared our answers before the exam and did very well. I suppose we were pretty bold because on June 6, we started talking about it in the hall at school. Beck was handing me the prepared exam and telling me to get rid of it. I said it was not my job to do that, when Anne Marcus came over to us and grabbed the exam paper. She looked at it and then at us and said, "I can't believe this! You guys cheated." We pleaded with her to keep it quiet and give us the paper back, but she refused. She said she was going to tell the principal about it on Monday if we did not turn ourselves in by then. Then she stuffed the papers in her backpack and threw the backpack into her locker right there. She locked it up and walked away. I felt like we were doomed.

On Sunday, June 8, Beck asked me to drive us to Cottonwood Canyon to talk with Anne. I thought that would be a complete waste of time because I knew Anne would not change her mind. But I had nothing else to do, and Beck insisted we go. On the way there, Beck talked about Anne and became more and more agitated. Beck called Anne a "backstabber" for threatening to turn us in. I was afraid of getting in trouble, but I could see that Anne risked getting in trouble for not turning us in. I asked Beck what good it would do to talk to Anne, but Beck would not listen to me.

When we arrived, we hiked up the ridge of the rock face where Anne was climbing. We waited for a couple of minutes, and when Anne reached the ridge, Beck just snapped. Anne was standing there, gathering up the rope when Beck lunged forward and grabbed Anne's collar. Beck

muttered something and made a noise. Then I saw Anne swinging her arms like she was trying to keep her balance. She yelled and had this terrified look on her face. Before I could do anything, Beck let go of her collar, and the two of them stood there for a few seconds. Anne did not move. Beck dusted off her shoulder and said, "We don't want you to get hurt, do we?" Then Anne coiled up her rope and said she wanted to leave.

Beck mentioned the exam to her. Beck said, "Let's go talk about this at the Cove." I'm sure he meant the Cove on the creek at the base of the rock face Anne had just climbed. Anne did not say anything, but just stared at Beck. They started walking together in the direction of the Cove, and I followed. I had second thoughts at this point about trying to convince Anne. She seemed determined to turn us in. But before I knew it, the two of them started screaming at each other. I am not sure who screamed first, but it startled me. Beck's face turned red, and Beck grabbed Anne's arm. Anne tried to get out of Beck's grip, but could not do it. So Anne just punched Beck in the shoulder and screamed, "Let me go!" By this time, we were at the tip of the promontory where the trail curved around toward the Cove. The two of them would not stop screaming at each other. Beck let go of her arm, but stood there on the ridge between her and me. Beck then pushed her shoulder, and she pushed back. I said, "This is a total waste of time, Beck." I told them I was going back to my car rather than watch them beat each other up. They ignored me and walked toward the Cove. I turned and headed back to my car. I walked slowly, being careful on the rocky trail.

When I got back, the clock on my dashboard said it was 7:50 p.m. I sat in the car and turned on the radio. I only got out of the car to go to the restroom once or twice over the next hour or so while I waited for Beck. It was very dark when Beck finally showed up at the car at 9:00 p.m. I asked where Anne was. Beck said, "At least I got one more day out of her." I assumed this meant that Anne was not going to tell on us. That seemed odd because the two of them had been fighting so fiercely. Beck seemed angry, and we argued. Beck accused me of ditching them on the ridge, and I accused Beck of keeping me waiting for so long. We got in the car, and I drove us back to the city. On the way back, I turned on my car's interior lights to look for something, and I noticed a small spot on the inside of Beck's right wrist. It looked like dried blood. I did not think anything of it at the time. We did not talk at all during the ride home. Beck still seemed angry and ignored me. I was also fed up with Beck. That kid was always getting me in trouble.

I arrived at school the next day at 11:00 a.m. after my doctor's appointment. A little later, the principal announced Anne's death. I was shocked, and I almost fainted. Just after lunch, around 1:14, I got a note to go to the office. There I saw Officer Kripke and the principal, but the principal left the room. The officer talked with me for a few minutes and told me that Anne had turned us in for cheating. I thought I had my college plans all wrapped up, but at that moment, I realized my plans were destroyed. I explained that Beck and I had been with Anne at the canyon the night before. I told the officer about Beck's and Anne's fight and that Beck was with her for a long time alone. I remembered the strange stain on Beck's wrist, and I told the officer about it and that it looked like dried blood. Then the officer thanked me and let me go back to class.

Cody Ward

WITNESS STATEMENT
PROSECUTION WITNESS: OFFICER LOREN KRIPKE

My name is Loren Kripke. I am 32 years old, and I have been an officer in the Salt City Police Department for five years. In addition to investigative and other police duties, I have been the School Resource Office ("SRO") at Salt City High School for the past three years. I investigated Anne Marcus' death.

As SRO, I know that most SC High graduates go on to attend college, and honor students in advanced classes tend to be accepted at some of the country's top schools. Image is important, and classes are competitive. Students are known to taunt, even sabotage, each other to get good grades.

The administration tries to keep a lid on cheating which has become rampant over the past couple of years because of the Internet. An honor system was developed two years ago to educate students about the pitfalls, discourage would-be cheaters, and require students to report incidents of cheating. In the spring of 2002, Cody Ward and Beck Martin were among the students caught cheating. Both of them received the punishment for a first offense knowing that a second offense would get them into more serious trouble.

Beck and Cody stood out among the students in their class for both academic and athletic honors. Beck is on the soccer team, trains hard, and lifts weights. Beck has leadership qualities, too, but was known to use them negatively and tended to be sarcastic. Cody has a similar personality, though Cody's hostility was known to go beyond sarcasm at times with other students. At the beginning of last year, Cody was reported to the Principal for taunting and punching a transfer student. Cody was suspended for a day from school, and there was a parent conference. That year, Cody was also disciplined one other time for a similar incident.

Students in Cody's or Beck's situation know that if they got in any more similar trouble, they could fail the class and have to repeat the course over the summer. They would not walk across the stage at graduation, and they would lose their chance of receiving the DWF scholarship. All of these factors would probably jeopardize their chances to go to a prestigious college, like Empire, even if they had been accepted already.

On the morning of Monday, June 9, at approximately 7:00 a.m., I received a call from dispatch that someone had found a body near the Cottonwood Canyon Creek. When I arrived on the scene a few minutes later, I found the body was on a small sandy area at a bend in the Creek that the kids call the "Cove". When I saw the body, I immediately recognized it as that of Anne Marcus. There was a small crowd of onlookers that had gathered in the Cove, and I had to clear them out of there up to the ridge until the coroners arrived.

I conducted a search of the Cove and visually examined the body. One of the first things I noticed were some reddish marks on her wrists. The first thought I had was that she had been bound. She was wearing climbers' clothes and still had her belt on with utility pouches and some small metal rings, which are called carabineers. I noticed that there was a ledge of rock a few inches above the

sand at the foot of the southern cliff face in the Cove. The ledge was about four feet wide and sparsely covered with sand. It had no rain or moisture on it. On this ledge, I also found a small rock that was just big enough to fit into my hands, and it had dried blood on it.

At about 11:00 a.m., the medical examiner ("M.E.") called me to give a report. The M.E. confirmed that the deceased was Anne Marcus and that the cause of death was drowning. The M.E. also told me that a forensics test showed that the blood on the rock I had found positively matched the blood of the victim, and that there was a laceration on the side of her head that was consistent with receiving a blunt force blow to the head.

I was officially assigned to investigate the case. I called the high school around 11:30 a.m. and informed the Principal that Anne Marcus' body had been found that morning at the Cove. I said that the matter was being investigated, but that I had no other facts at that time.

I arrived at SCHS and learned about Anne's school friends and possible enemies by asking routine questions. I learned that Anne was a studious and popular girl. I also learned that Anne had confidentially reported to the administration an incident of cheating the previous Friday. The cheaters were Beck Martin and Cody Ward, and they both believed that Anne was going to report them on Monday. I also learned that Anne's locker had been vandalized that morning.

In my conversations with administrators and staff, I learned that everything looked normal at 6:30 in the morning. But during first period, Anne Marcus' locker was found open with the door bent in the middle and with a cracked combination lock. Papers were reportedly strewn on the floor of the locker, and a backpack inside was turned over and unzipped. Additionally, at about 7:00 a.m., before school started, Beck Martin was seen near the school entrance.

I decided it was a good idea to talk with Beck and Cody about what they knew. Cody arrived first. I asked Cody a few questions. I said that I knew about the cheating and asked if Cody could tell me anything special about Anne. Cody told me that Cody and Beck had talked to Anne at Cottonwood Canyon the previous evening. Cody also mentioned that Beck and Anne had been fighting there, that Cody had left them alone on the trail to the Cove, and that Beck did not return until around 9:00 p.m. Cody also mentioned that Beck had a stain on the inside of Beck's right wrist that looked like blood.

When Cody left the room, I asked for Beck to be brought in. I told the Principal that I wanted to talk to Beck alone. Beck soon arrived, and I told Beck that I needed to ask a few questions. I told Beck to sit down, and I read the *Miranda* rights just in case. I used a conversational tone and sat in the Principal's chair so that I would not be standing over Beck. I asked if Beck and Anne Marcus were friends. Almost immediately, Beck said how sad it was that Anne hit her head and died. I knew that no one else beside myself and the M.E. knew anything about Anne's head wound. I had not told anyone, not even Anne's parents.

Based on the information I had from the M.E. and conversations with Cody Ward, Beck Martin, and others around school, I had enough evidence to present to a judge for an arrest warrant. I knew that Beck had been alone with Anne Marcus for a substantial time and was the last known person to see her alive. With the warrant, I arrested Beck Martin later that day.

Officer Loren Kripke

WITNESS STATEMENT
PROSECUTION WITNESS: DR. AIDAN HOBBS

My name is Aidan Hobbes. I earned a bachelor's degree in chemistry from Middle State University and then went on to Jefferson University Medical School. I graduated from Jefferson with distinction in 1990 and did my residency training at Salt City Hospital's pathology lab before taking a position as an Assistant Coroner for Canyon County. During my first year as a coroner, I was assigned to be director of the forensic serology lab. I am now assistant chief coroner and have been appointed chairperson to the State Committee for Professional Standards in Forensic Pathology for the last three years. I am also the medical examiner in the death of Anne Marcus.

As part of my initial examination of the body at the Cove, I observed several things. Marcus was wearing climbers' garb, a short-sleeved T-shirt, shorts, and shoes. There were ligature marks on her wrists. There was also an injury on her head, just above the left temple, which looked like a laceration. The area around her left eye was swollen, which appeared to me to be the result of some kind of trauma, like getting punched in the eye. At 7:30 a.m. when I examined the body, she was in an advanced state of rigor mortis. Her whole body was stiffened, except for the large muscles in her lower legs. There were some small cuts and bruises, consistent with her being bumped around in the rocky creek.

Back at the medical examination lab, I discovered water in Marcus' lungs. I surmised that Anne had drowned. By the state of rigor mortis of the body, I estimated that she had died sometime between 8:00 p.m. and midnight on June 8. Rigor mortis is a process by which the compounds in the body's muscles that provide muscular energy are lost. As the heart stops beating and respiration ceases, these compounds lose a necessary supply of oxygen and nutrients, and the muscles stiffen. The process starts with the small muscles in the head and neck and progresses downward to the toes over the course of 8-12 hours for a body of average weight and musculature like that of Anne Marcus. Also, it can take longer in cold temperatures. Marcus died in the creek and at night when the air temperature drops significantly. Assuming she died at about 8:30 p.m., then she would be in full rigor by 8:30 a.m. the following day. Yet probably because of the cold, her legs generally remained flaccid at the time of my laboratory examination. If she had died only eight hours before her body was found, far fewer of her muscles would be in a state of rigor.

While conducting the autopsy at my lab, I looked more closely at the ligature marks on Marcus' wrists. In the course of rock climbing, it would be highly unusual for a climber to sustain virtually congruent injuries to both wrists. It would mean the climber would have to hold on to the rope with both hands and then to fall, sustaining almost identical rope burns on both wrists. The chances for this happening are very small, as there is no reason for an experienced climber to make such a gesture. I have seen congruent marks like these in only nine or ten other cases I have dealt with, both as a pathologist and as student intern. In each of those cases, the victim was tied up by someone else.

I also examined the wound above Marcus' left temple. I believe the only way she could have sustained this would be from some blunt force instrument or object. There is a five-centimeter laceration, which tapers at one end. Directly underneath, her skull has a hairline fracture. This is consistent with someone else holding out an object and hitting Marcus directly on the side of the head. It is not consistent with Marcus' falling onto the rocks. To sustain a falling injury to the head like this, she would have had to tilt her head dramatically toward her right shoulder in order to connect her temple squarely against the rocks. No one in a falling motion, even from the 25-foot height of the particular cliff in the Cove, would have the time or the presence of mind to do so. Moreover, the small rock on which Officer Kripke found the dried blood itself could not have caused the injury if Marcus fell on it unless it was tightly wedged into a larger rock, which from the officer's report was not the case.

As for the blood on the rock, early testing revealed that it was type A, the same as Marcus'. Medical records show that Beck Martin also has type A blood. In a murder investigation of a brutal crime, this can pose a problem for a forensic investigator, but we have a different situation here. First, on June 9, Martin did not claim to have sustained any injury, so there is no reason to believe that the blood could belong to Martin. Secondly, blood is identifiable by more than just type. Everyone's blood contains enzymes and proteins with a myriad of potential chemical makeups. Scientists have identified 12 such "genetic markers," each of which has between three and ten separate types. I found in the sample of dried blood on the rock two of the six identifiable genetic markers that were present in a blood sample taken from Marcus' body. Moreover, these two genetic markers were of the same type as those markers from Marcus' body. The chances for this being a coincidence are, again, very small.

Therefore, it is my professional opinion that Anne Marcus was struck on the side of the head and perhaps knocked unconscious as a result, before or after being bound with rope. Her body was thrown or pushed into the creek where she subsequently drowned.

Dr. Aidan Hobbes

WITNESS STATEMENT
DEFENSE WITNESS: BECK MARTIN

My name is Beck Martin. I am 17 years old. I live at 789 Fortuna Road in Salt City. During the 2002-03 school year, I was a co-captain of the SCHS soccer team. Throughout high school, I had won many awards for academic decathlons, debate society competitions, and fiction writing.

I will admit up front that I cheated on the Honors English Literature exam in Mr. Molina's class. I am deeply ashamed that I did this. The irony is that I think I would have done well on the exam anyway. I had an "A" in that class already. But my parents were really counting on me to earn a scholarship to enable me to go to Empire University. It is a family tradition to excel in school. That DWF scholarship was very important to me. I was afraid of getting anything less than an "A" in Mr. Molina's class. That is also why I cheated on algebra that other time.

In early May, I took the spare key to Molina's cabinet from the office of the English department. I was an intern in the English department as part of the school volunteer community service program. In Molina's cabinet, I found a blank exam, photocopied it, and returned the blank exam and the key. No one was the wiser until Cody Ward noticed me taking the key from my pocket as I walked into the English department's empty office. Cody asked what I was doing, but I did not want to say. Cody threatened to tell the principal that I was nosing around without permission, so I showed Cody the exam photocopy. Cody asked to get a copy of that, too. I said, "OK." After that, we worked together over the next couple of weeks preparing all the answers in advance. We aced the exam, of course.

At school on June 6, I asked Cody to get rid of the exam copy we had used. I took it out of my backpack and handed it to Cody. That is when Anne Marcus approached us and grabbed the exam from Cody's hands. She looked at it, and I could tell she knew right away what it was. She accused us of cheating. Of course, she was right. We begged her to keep her mouth shut about it. She was angry, though. She accused us of destroying her chances for getting the scholarship. Then she put the exam in her backpack and locker. She said it would stay there either until we turned ourselves in, or until she told on us sometime Monday.

I was afraid, so I tried calling Anne's phone number many times over the weekend. When Anne did not return any of my calls, I decided to talk to my minister that Sunday morning. Just before church began, I told him that I cheated and that I wanted to turn myself in. The Reverend agreed that was the best thing to do. I just wanted a little more time to do it. I wanted Anne not to turn us in until Tuesday, so I could think about how to explain it to my parents. I felt like my life was ruined, so I needed courage. I wanted to tell them when they called Monday night. They called me every Monday night while they were away in Europe.

I called Cody in the afternoon. Cody insisted that I find out where Anne was. I knew Anne was an avid rock climber and that she loved to climb the rock face in Cottonwood Canyon above the Cove. Cody offered to drive us down there so that we could talk to her. I did not tell Cody about my plan to try to get Anne just to postpone telling on us.

When we got there, we saw Anne. She was the only climber on the rock face. We walked along the ridge and waited for her. When Anne reached the ridge, I had the fright of my life. A piece of rock gave way under her foot when she turned to gather up her rope. I grabbed her quickly to keep her from falling. She seemed startled. It all happened within a few seconds. Cody laughed and did not even attempt to help, which I thought was a bizarre reaction.

Anne started to walk toward the Cove, and we went with her. Cody lagged behind a bit, and Anne and I talked. I asked Anne to wait until Tuesday because I wanted to explain it to my parents before the school told them. Anne refused. Still, I begged Anne, though she said she would not change her mind. We argued about it. Anne was annoyed that we had come down to see her and that Cody kept laughing. When we were almost at the Cove, I turned around and saw that Cody was gone. Anne and I walked down to the Cove. There we talked for a while, and she finally said she would not turn us in until Tuesday morning. She still seemed annoyed with me and said, "Whatever. You have until Tuesday." She started climbing back up the cliff. I watched her climb for a little while and then I left.

It took me awhile to walk back to Cody's car as it got darker. It was 8:30 p.m. according to my watch when I arrived at the car, but Cody was not there. I was upset because Cody stranded us on the trail and now was gone. I decided to take a walk to cool off, so I headed north up the creek trailhead. It was about 9:00 p.m. and totally dark when I came back.

Back at the car, I saw Cody was waiting for me this time, sitting on the hood of the car. His T-shirt looked like it was sweaty, as if he had been running or something. I was mad at Cody for ditching me. I told Cody that Anne would wait one more day. I also said, "I thought we were in this together." Cody laughed again, which I thought was a weird response to what I said. We shouted a little at each other, but then Cody drove me home. We were both silent all the way home. I do not know where Cody got this idea about a spot on my wrist. I never saw anything on my wrist that day.

On Monday, I arrived at school at 7:00 a.m. Sometimes I come early to work out on the treadmill in the gym. I also thought I might confess about cheating, but I chickened out. I was scared because I never got along very well with the administration. A couple of hours later, the Principal announced that Anne had died. I was shocked. I realized that I might have been the last person to ever see Anne. The rock face at the Cove can be a dangerous place.

Just after 1:30 or so, I was told to go to the Principal's office. I went there, and I saw Officer Kripke. I sat down. The officer read me the rights they say on the cop shows. I thought I was under arrest, and I was nervous because I had never been questioned by the police before. The officer said my statements were being tape-recorded, which to me sounded serious. Then the officer asked me about Anne at the Cove.

This did not sound right to me. I had no idea what this was about, so I asked to see my Aunt Myra who lived down the street from us. Since my parents were gone, I wanted to talk to her before talking to the officer. The officer said that my aunt was not going to be called, but that I could have an attorney. This frightened me, but I felt I needed permission to get up, so I did not move. The whole situation was intimidating.

Then the officer asked me if Anne and I were friends. I was so horrified that she was dead that the officer's question just jolted me. I mentioned that I assumed she had fallen from the cliff where I last saw her and possibly hit her head. She was an experienced climber, but she had had minor accidents before. The whole questioning had me confused. The officer's tone of voice was very stern.

When the questioning ended, I was sent back to class. I was totally shocked when I was arrested later. I cannot believe that anyone would think that I killed Anne.

Beck Martin

WITNESS STATEMENT
DEFENSE WITNESS: DR. SAGE GRACIAN

My name is Sage Gracian. I retired in 2000 from the Canyon County Coroner's Office after working for 18 years as an assistant coroner. I earned my bachelor's degree in biology from Northern Utah College in 1954. I worked in the Peace Corps in West Africa for two years before returning to earn my medical degree from Jefferson University Medical School in 1971. I entered private practice and, in 1980, began teaching a clinical course at Jefferson. In 1981, I changed the emphasis of my career and became certified in forensic pathology. In 1982, I was hired by the Canyon County Coroner's Office. I have since worked as a coroner, taught seminar courses, and have published nine articles in professional journals on the practice of forensic pathology. My book, *Traumatic Anatomy and Physiology*, has become a standard introductory text in forensic medicine programs nationwide. Since retirement, I have continued teaching at the university. I am also a past president of Salt City Rock Climbers.

At the request of the defendant, I have reviewed the records of the Canyon County Coroner's Office and have been able to examine the physical evidence, morgue photographs, and tissue samples. With all due respect to Dr. Hobbes, I have some problems with the conclusions reached regarding the death of Anne Marcus.

First, I will begin with the so-called ligature marks on her wrists. Ligature marks indicate binding of some kind, as in a person being tied-up. The photos I saw of Marcus' wrists certainly showed reddish marks. They looked like marks from a rope. However, I disagree with the examining coroner's analysis. First of all, the marks were not even all the way around the wrist. On the left wrist, the marks did not appear on the underside, indicating that the rope, which caused the mark, was not wrapped around the entire wrist. Also, Anne Marcus was a rock climber, and so am I. I have seen numerous climbers give themselves similar rope marks on their arms and legs during moments of carelessness or when a sudden gust of wind causes them to slip. I believe there is not enough evidence to call the marks on Marcus' wrists "ligature marks." Dr. Hobbes also doesn't report finding any rope fibers in the marks, and no rope was found at the scene of death as far as I know.

Second, the wound on Marcus' head may have come from a variety of causes. The records show that the wound opening was five centimeters long. It is also slightly triangular in shape, which to me indicates a kind of scraping motion. This could easily be the result of Marcus' falling from the cliff. If her head had turned in a certain way, her striking the bottom could have caused this type of injury. The force of the fall on even a small rock, like the palm-sized one in question here, would have resulted in a nasty head wound. Even if Marcus fell from a low elevation, maybe 10 feet, she could have received an injury such as the one we see on her temple. Such a wound could also have easily disoriented her and led her to stumble into the rocky and deadly creek below.

Third, the swelling of her left eye is consistent with one of two causes. The first is a blunt force blow, such as a blow from a fist to the eye. The second, and far more likely cause, is swelling related to the head injury and fall from the cliff. This collateral swelling of the capillaries around the eye frequently comes from suffering a blow to the temple, as I have seen in numerous cadavers. The cuts and bruises on her body, including the eye, appear to have come from her falling on the rocks and from the rocks below the surface of the creek.

Fourth, we cannot easily approximate the time of Marcus' death. The certificate of death indicates that Marcus was pronounced legally dead at 7:30 a.m. on June 9 when Dr. Hobbes arrived at the Cove. Of course, physiologic death is much harder to pinpoint. Rigor mortis is generally unreliable as a means to determine time of death when compared to other methods, such as body temperature or stomach contents, because of all the variables. Though the water and weather were cold, which can slow the process of rigor, Anne was also slender, which can speed up the process. Judging from the records, I believe there is not enough evidence to say she died as early as 8:00 or 8:30 p.m. on June 8.

Finally, the blood analysis is not conclusive. Usually, it takes three or four matching genetic markers shared between two blood samples in order for scientists to have a fairly definite claim that the samples are from the same source. With each unmatched marker, the chance of their being from the same person decreases exponentially. All of us share genetic markers in many of the same combinations. Identification through exact matches is more uncanny than is usually thought. Even so, once blood leaves the body, the enzymes that make up these genetic markers begin to deteriorate. Dried blood on a rock out in the open air is probably the worst sample from which to draw any conclusions without DNA evidence. No DNA testing was done here.

In my professional opinion, Anne Marcus died an accidental death in the Cottonwood Canyon Cove. She fell from the cliff and scraped her wrists on the climbing rope in the process. She hit her head and tragically fell into the rocky creek that swept her under the water's surface, where she drowned. The rocks and boulders in the water prevented her body from drifting far downstream.

Dr. Sage Gracian

WITNESS STATEMENT
DEFENSE WITNESS: RANGER DALE PLOTNIK

My name is Dale Plotnik. I have been a ranger with the Utah State Parks for 14 years. I have worked at the Cottonwood Canyon Station for the last three years. Working at the Canyon has numerous responsibilities. I have to patrol the Canyon, the creek, the Cove and outlying areas nearby, including camping areas and over 20 miles of hiking trails in the hills on the eastern side of the highway. I have to perform many duties, such as park maintenance and enforcing park rules governed by state law.

At other times, I monitor the day use parking lot for Cottonwood Canyon. This requires me to be on duty in a kiosk, greet visitors, collect the day use fee, and to see everyone is out by sunset when the Canyon closes. Any car in the parking lot after sunset will also receive a citation. I warn all visitors of this when they arrive because the rule is intended to dissuade visitors from sleeping there overnight.

The Cottonwood Canyon State Park has a distinctive geography. The Canyon itself is several miles long and is popular with hikers and rock climbers as a resting place and gathering spot. At the southern end of the Canyon is the promontory, quite popular for rock climbers. At the creek level below the promontory is a place called the Cove where a bend in the creek has created a small sandy area. The Cove is surrounded by cliffs, and at the top of these cliffs are a few private residences.

The residences are set back from the edges of the cliffs. Once in a while, I patrol around the promontory to make sure that no one is trespassing in this private area. Sometimes I have seen the residents climbing down to the Cove, though I would advise them against it because the area can be dangerous.

There are two routes to the Cove from the creek, the ridge trail around the promontory and a dirt-hiking trail behind the eastern side of the promontory. The hiking trail is not much used, probably because it is very steep in places.

On June 8 at about 6:15 p.m., I greeted a young woman in her car at the gate to the parking area. She appeared about 17 or 18 years old. I later learned that she was Anne Marcus when I saw her picture in the newspaper.

Later at around 7:00 p.m. as I headed down a trail, I noticed two other individuals in the distance who arrived together in a white two-door sports car. I don't think any other visitors arrived after them since I did not see any additional cars in the lot, but there were a few other cars in the parking area from earlier in the day.

I closed the kiosk at sunset, about 8:05 p.m., and walked up the road north to make my inspection of the picnic area. When I returned to the parking lot at 8:40 p.m., I saw there were still two cars in the parking lot. One was the white sports car, and the other was the car that

arrived at 6:15. I approached both cars and saw that they were empty. I decided to check around the creek area just to see if the drivers of the cars were nearby.

I walked up the Canyon in the direction away from the Cove. I didn't see anyone, and I turned around to go to the Cove. It was almost dark, but there was still some twilight left. It must have been about 8:50 p.m. when I had almost gotten back to the parking lot. From a long distance, I saw someone running towards the parking lot. I couldn't tell for sure, but I think that the person may have been coming from the back way to the Cove. I would say this person was at least 100 feet or more away from me, so I couldn't get a good description. I called up to the person that the Canyon was closed. The person waved back to acknowledge the message. I then went to the Cove the back way.

Just as I started down that trail, I heard someone on the main trail behind me moving toward the parking lot. I waved and called out that the Canyon was closed. The person was wearing a white baseball hat and looked like the passenger in the sports car that arrived at 7:00 p.m., but since they were more than 50 feet away, I couldn't make any positive identification. After that, I went down to the Cove and then back to the parking lot without seeing or hearing anyone else. When I got back to the parking lot, the white sports car was gone. I wrote up a citation for the one car left in the parking lot. I drove back to the Ranger Station, and my workday was done.

I spend a great deal of my free time with youth activities at my church, the same church the Martin family attends. So I have known Beck Martin for years. Many of the teenagers and young adults, including Beck Martin, are involved in charitable events. For the last two years, Beck helped organize monthly food drives for the local homeless shelter. In fact, the local chamber of commerce awarded Beck a community service medal last year for this work. Even when other kids did not follow through, I knew I could count on Beck to come through. It is impressive to see a teenager as mature as Beck Martin. Beck has a good reputation in church and in the community.

We had a program in conflict resolution at the church not too long ago, and Beck participated. Beck must have taken the messages to heart because I have seen Beck settle arguments among others. Once there was a disagreement between two members about where some records of donations were kept. It was a trivial argument about some clutter that had built up in the youth ministry office. However, these two young people blamed each other for losing the donations records and were ready to fight over it. Beck stepped in and talked to each of them individually, and then together. Within a couple of minutes, they were shaking hands. It was amazing. Perhaps Beck will make a good minister or counselor one day.

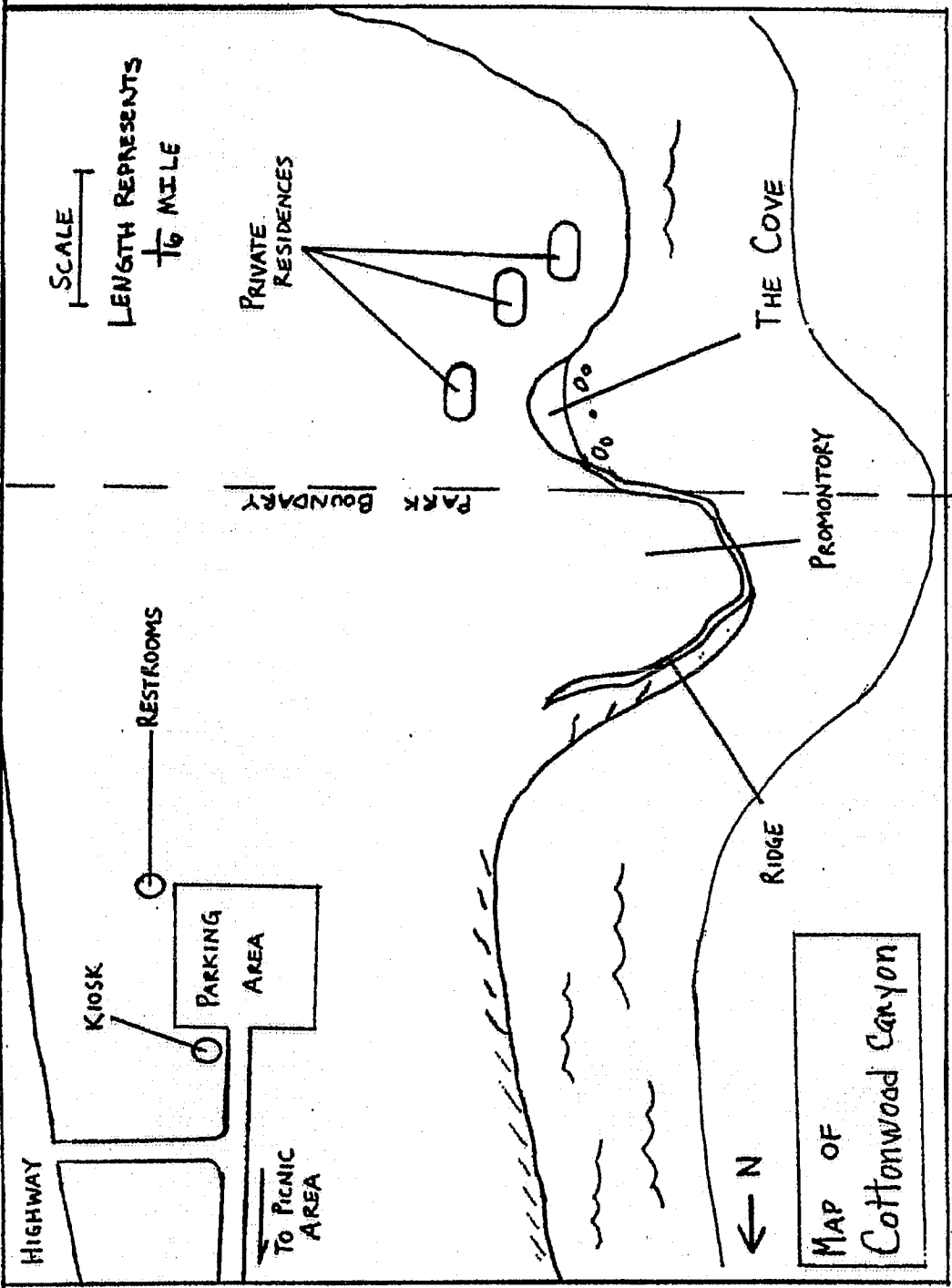
Beck also confided in me on the morning of Sunday, June 8, that Beck had cheated on an exam. Beck really seemed distraught by it. I understood because I know Beck's parents. Beck's parents are professional people and very well educated. Beck wanted nothing more than to follow in their footsteps. They had attended prestigious universities and assumed that Beck would do the same. Beck seemed worried that Mr. and Mrs. Martin would be severely

disappointed about the cheating. I reassured Beck that they could also be forgiving. Beck was shaking during our conversation. Beck seemed remorseful about the cheating and told me that s/he would probably confess to the principal sometime on Tuesday after Beck's parents returned.

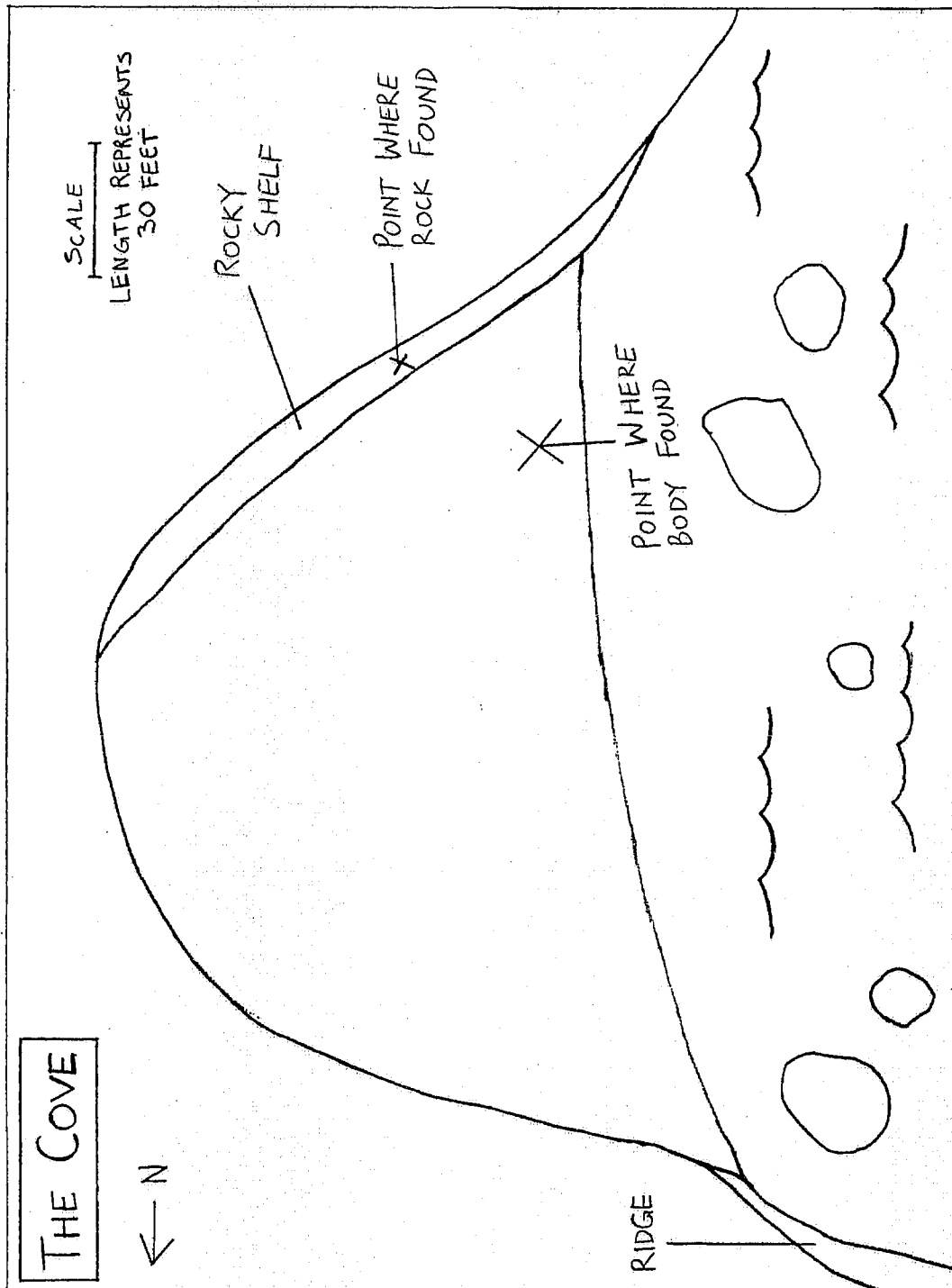
I think a lot about whether the people I saw in the park that night were Beck and Beck's friend. I wish I could say for sure. The fact is, it was just too dark, and I was too far away.

Ranger Dale Plotnik

OFFICIAL DIAGRAM
COTTONWOOD CANYON



OFFICIAL DIAGRAM
COVE AT COTTONWOOD CANYON



OFFICIAL DIAGRAM
CORONER'S DIAGRAM OF ANNE MARCUS' BODY

